

Executive Summary – Enforcement Matter – Case No. 43156
Harvey Ray Hawkins
RN103510830
Docket No. 2013-1968-LII-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

LII

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Harvey Ray Hawkins, 1521 West Avenue M, San Angelo, Tom Green County

Type of Operation:

Irrigation and landscape business

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 9, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,175

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$296

Total Due to General Revenue: \$879

Payment Plan: 3 payments of \$293 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 22, 2013

Date(s) of NOE(s): September 25, 2013

Executive Summary – Enforcement Matter – Case No. 43156
Harvey Ray Hawkins
RN103510830
Docket No. 2013-1968-LII-E

Violation Information

1. Failed to begin including in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s): "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.texas.gov" [Agreed Order Docket No. 2011-2314-LII-E Ordering Provision Nos. 2.a.i. and 2.b. and 30 TEX. ADMIN. CODE § 344.71(b)].
2. Failed to begin preparing and providing an irrigation plan and maintenance checklist for each site where a new irrigation system is installed [Agreed Order Docket No. 2011-2314-LII-E Ordering Provision Nos. 2.a.ii. and 2.b. and 30 TEX. ADMIN. CODE § 344.63(2) and (4)].
3. Failed to implement improvements to the recordkeeping system to ensure retention of the irrigation system records [Agreed Order Docket No. 2011-2314-LII-E Ordering Provision Nos. 2.a.iii. and 2.b. and 30 TEX. ADMIN. CODE § 344.35(d)(5)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By October 18, 2013, the Respondent has implemented the following corrective measures:

- a. Began including the required statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.texas.gov" on all invoices, bids, and written estimates; and
- b. Began using a rubber stamp, printed with the required statement, on all bids, and written estimates relating to the installation or repair of an irrigation system.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately:
 - i. Begin preparing and providing an irrigation plan and maintenance checklist for each site where a new irrigation system is to be installed; and
 - ii. Implement improvements to the recordkeeping system to ensure retention of irrigation system records.

Executive Summary – Enforcement Matter – Case No. 43156

Harvey Ray Hawkins

RN103510830

Docket No. 2013-1968-LII-E

b. Within 30 days, submit written certification to demonstrate compliance with Ordering Provision a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Farhaud Abbaszadeh, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0779; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Harvey Ray Hawkins, Licensed Irrigator, 1521 West Avenue M, San Angelo, Texas 76901

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	7-Oct-2013	Screening	14-Oct-2013	EPA Due	
	PCW	16-Oct-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Harvey Ray Hawkins		
Reg. Ent. Ref. No.	RN103510830		
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43156	No. of Violations	3
Docket No.	2013-1968-LII-E	Order Type	Findings
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 20.0% Enhancement **Subtotals 2, 3, & 7** \$200

Notes Enhancement for one agreed order with denial of liability.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$25

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$19
Approx. Cost of Compliance \$250
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$1,175

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$1,175

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$1,175

DEFERRAL 0.0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$1,175

Screening Date 14-Oct-2013

Docket No. 2013-1968-LII-E

PCW

Respondent Harvey Ray Hawkins

Policy Revision 3 (September 2011)

Case ID No. 43156

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103510830

Media [Statute] Irrigators

Enf. Coordinator Heather Podlipny

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one agreed order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 14-Oct-2013

Docket No. 2013-1968-LII-E

PCW

Respondent Harvey Ray Hawkins

Policy Revision 3 (September 2011)

Case ID No. 43156

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103510830

Media [Statute] Irrigators

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s) Agreed Order Docket No. 2011-2314-LII-E Ordering Provision Nos. 2.a.i. and 2.b. and 30 Tex. Admin. Code § 344.71(b)

Violation Description

Failed to begin including in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s): "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.texas.gov". Specifically, the Respondent did not begin including the required statement on all invoices, bids, and written estimates relating to the installation or repair of an irrigation system.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Harm			
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

435 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$25

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent returned to compliance on October 18, 2013 and the NOE is dated September 25, 2013.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

Economic Benefit Worksheet

Respondent Harvey Ray Hawkins
Case ID No. 43156
Reg. Ent. Reference No. RN103510830
Media Irrigators
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	5-Aug-2012	18-Oct-2013	1.20	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost for including the required statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.texas.gov" on all invoices, bids, and written estimates relating to the installation or repair of any future irrigation systems. The Date Required is the effective date of Agreed Order Docket No. 2011-2314-LII-E and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

Screening Date 14-Oct-2013

Docket No. 2013-1968-LII-E

PCW

Respondent Harvey Ray Hawkins

Policy Revision 3 (September 2011)

Case ID No. 43156

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103510830

Media [Statute] Irrigators

Enf. Coordinator Heather Podlipny

Violation Number 2

Rule Cite(s) Agreed Order Docket No. 2011-2314-LII-E Ordering Provision Nos. 2.a.ii. and 2.b. and 30 Tex. Admin. Code § 344.63(2) and (4)

Violation Description

Failed to begin preparing and providing an irrigation plan and maintenance checklist for each site where a new irrigation system is installed.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 2

435 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

Two single events are recommended, one for the irrigation plan and one for the maintenance checklist.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$600

This violation Final Assessed Penalty (adjusted for limits) \$600

Economic Benefit Worksheet

Respondent Harvey Ray Hawkins
Case ID No. 43156
Reg. Ent. Reference No. RN103510830
Media Irrigators
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	5-Aug-2012	14-Apr-2014	1.69	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to begin preparing and providing an irrigation plan and maintenance checklist for each site where a new irrigation system is to be installed. The Date Required is the effective date of see EB1 and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$8

Screening Date 14-Oct-2013
Respondent Harvey Ray Hawkins
Case ID No. 43156
Reg. Ent. Reference No. RN103510830
Media [Statute] Irrigators
Enf. Coordinator Heather Podlipny
Violation Number 3

Docket No. 2013-1968-LII-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Rule Cite(s) Agreed Order Docket No. 2011-2314-LII-E Ordering Provision Nos. 2.a.iii. and 2.b. and 30 Tex. Admin. Code § 344.35(d)(5)

Violation Description Failed to implement improvements to the recordkeeping system to ensure retention of the irrigation system records.

Base Penalty \$5,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> **Programmatic Matrix**

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

435 **Number of violation days**

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% **Reduction**

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$300

This violation Final Assessed Penalty (adjusted for limits) \$300

Economic Benefit Worksheet

Respondent Harvey Ray Hawkins
Case ID No. 43156
Reg. Ent. Reference No. RN103510830
Media Irrigators
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	5-Aug-2012	14-Apr-2014	1.69	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement improvements to the recordkeeping system to ensure retention of the irrigation system records. The Date Required is the effective date of see EB1 and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$4



Compliance History Report

PENDING Compliance History Report for CN602030793, RN103510830, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN602030793, HAWKINS, HARVEY RAY **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN103510830, HAWKINS, HARVEY RAY **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 1521 WEST AVENUE M, SAN ANGELO, TEXAS 76901, TOM GREEN COUNTY

TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):

LANDSCAPE IRRIGATION LICENSING LICENSE
LI0002409

BACKFLOW PREVENTION ASSEMBLY TESTER
LICENSING LICENSE BP0014608

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: October 14, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 14, 2008 to October 14, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Heather Podlipny

Phone: (512) 239-2603

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 08/05/2012 ADMINORDER 2011-2314-LII-E (1660 Order-Agreed Order With Denial)

Classification: Major

Citation: 30 TAC Chapter 344, SubChapter B 344.24(a)

30 TAC Chapter 344, SubChapter C 344.35(d)(2)

Description: Failure by an irrigator to comply with the local ordinances of a municipality.

Specifically, during the 07/19/11 record review investigation, it was documented that Mr. Harvey Ray Hawkins, Owner, HRH Irrigation & Landscape, Landscape Irrigator License Number 2409 installed an irrigation system without obtaining a permit prior to the installation and did not provide an irrigation plan to the city inspector for the site location of 1527 Barbara Avenue in San Angelo.

Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter G 344.71(b)

Description: Failure by an irrigator to include the required TCEQ statement on an invoice.

Specifically, during the 07/19/11 record review investigation, it was documented that Mr. Harvey Ray Hawkins, HRH Irrigation & Landscape, Landscape Irrigator License Number 2409 did not include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas

78711-3087. TCEQ's web site is: www.tceq.state.tx.us." on all written contracts,

Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter F 344.63(2)

30 TAC Chapter 344, SubChapter F 344.63(4)

Description: Failure by an irrigator to provide a maintenance checklist.

Specifically, during the 07/19/11 record review investigation, it was documented that Mr. Harvey Ray Hawkins, Owner, HRH Irrigation & Landscape, Landscape Irrigator License Number 2409 did not provide a maintenance checklist to the homeowner at the site location of 1527 Barbara Avenue in San Angelo.

Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter C 344.35(d)(5)

Description: Failure by an irrigator to maintain landscape irrigation systems records.

Specifically, during the 07/19/11 record review investigation, it was documented that Mr. Harvey Ray Hawkins, Owner, HRH Irrigation & Landscape, Landscape Irrigator License Number 2409 installed an irrigation system without retaining the irrigation system records (the irrigation plan) at the site location of 1527 Barbara Avenue in San Angelo.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HARVEY RAY HAWKINS
RN103510830**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-1968-LII-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Harvey Ray Hawkins ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 37 and TEX. OCCUPATIONS CODE ch. 1903. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates an irrigation and landscape business at 1521 West Avenue M in San Angelo, Tom Green County, Texas. The Respondent holds TCEQ Irrigator License No. LI0002409 and sells, designs, offers consultations, installs, maintains, alters, repairs, and/or services landscape irrigation systems.

2. TCEQ has general authority to regulate the design and installation of landscape irrigation systems, and the licensing of landscape irrigators and installers, pursuant to TEX. OCCUPATIONS CODE ch. 1903.
3. During a record review conducted on August 22, 2013, TCEQ staff documented the Respondent failed to begin including in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s): "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.texas.gov". Specifically, the Respondent did not begin including the required statement on all invoices, bids, and written estimates relating to the installation or repair of an irrigation system.
4. During a record review conducted on August 22, 2013, TCEQ staff documented the Respondent failed to begin preparing and providing an irrigation plan and maintenance checklist for each site where a new irrigation system is installed.
5. During a record review conducted on August 22, 2013, TCEQ staff documented the Respondent failed to implement improvements to the recordkeeping system to ensure retention of the irrigation system records.
6. The Respondent received notice of the violations on September 28, 2013.
7. The Executive Director recognizes that, by October 18, 2013, the Respondent has implemented the following corrective measures:
 - a. Began including the required statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.texas.gov" on all invoices, bids, and written estimates; and
 - b. Began using a rubber stamp, printed with the required statement, on all bids, and written estimates relating to the installation or repair of an irrigation system.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37 and TEX. OCCUPATIONS CODE ch. 1903 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to begin including in all written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s): "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087.

TCEQ's web site is: www.tceq.texas.gov", in violation of Agreed Order Docket No. 2011-2314-LII-E Ordering Provision Nos. 2.a.i. and 2.b. and 30 TEX. ADMIN. CODE § 344.71(b).

3. As evidenced by Findings of Fact No. 4, the Respondent failed to begin preparing and providing an irrigation plan and maintenance checklist for each site where a new irrigation system is installed, in violation of Agreed Order Docket No. 2011-2314-LII-E Ordering Provision Nos. 2.a.ii. and 2.b. and 30 TEX. ADMIN. CODE § 344.63(2) and (4).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to implement improvements to the recordkeeping system to ensure retention of the irrigation system records, in violation of Agreed Order Docket No. 2011-2314-LII-E Ordering Provision Nos. 2.a.iii. and 2.b. and 30 TEX. ADMIN. CODE § 344.35(d)(5).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of One Thousand One Hundred Seventy-Five Dollars (\$1,175) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Two Hundred Ninety-Six Dollars (\$296) of the administrative penalty. The remaining amount of Eight Hundred Seventy-Nine Dollars (\$879) of the administrative penalty shall be payable in three monthly payments of Two Hundred Ninety-Three Dollars (\$293) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand One Hundred Seventy-Five Dollars (\$1,175) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in

this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Harvey Ray Hawkins, Docket No. 2013-1968-LII-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order:
 - i. Begin preparing and providing an irrigation plan and maintenance checklist for each site where a new irrigation system is to be installed, in accordance with 30 TEX. ADMIN. CODE § 344.61; and
 - ii. Implement improvements to the recordkeeping system to ensure retention of irrigation system records.
- b. Within 30 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Program Support Section
Office of Compliance and Enforcement, MC 174
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

7/7/14
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Harvey Ray Hawkins. I am authorized to agree to the attached Agreed Order on behalf of Harvey Ray Hawkins, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Harvey Ray Hawkins waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature - Harvey Ray Hawkins

3/22/14
Date

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.